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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

KEVIN BRATCHER,

Plaintiff,

v.

POLK COUNTY; CITY OF SALEM;
DEPUTY MICHAEL H. SMITH, in his
individual capacity, and DOES 1-4, in their
individual capacity,

Defendants.

Case No.: 3:20-cv-02056-SB

**DECLARATION OF COUNSEL
AMANDA L. REILLY IN SUPPORT OF
PLAINTIFF'S OPPOSED MOTION
FOR EXTENSION OF TIME TO
RESPOND TO COUNTY
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

I, Amanda L. Reilly, hereby declare under penalty of perjury that the following is true and correct:

1. I am one of the attorneys for plaintiff in the above-captioned matter. I make this declaration in support of Plaintiff's Opposed Motion for Extension of Time to Respond to County Defendants' Motion for Summary Judgment. I am competent to testify about the matters herein. I make this declaration based upon my own personal knowledge and my review of the files related to this matter.

2. Plaintiff's responses to County Defendants' Motion for Summary Judgment and City Defendants' Motion for Summary Judgment were due on March 28, 2022.

3. On March 28, 2022 at 5:49 PM, I electronically filed Plaintiff's Response to City Defendant's Motion for Summary Judgment. On March 28, 2022 at 6:05 PM, I electronically filed the Declaration of Counsel Amanda L. Reilly in Support of Plaintiff's Response to City Defendant's Motion for Summary Judgment.

4. I intended to electronically file Plaintiff's Response to County Defendants' Motion for Summary Judgment and the Declaration of Counsel Amanda L. Reilly in Support of Plaintiff's Response to County Defendant's Motion for Summary Judgment immediately after I filed plaintiff's responsive documents to City Defendants' Motion for Summary Judgment. Unfortunately, I became distracted with personal matters (I am still working from home) and mistakenly forgot to do so. However, both of these documents were completed and ready to be filed on March 28, 2022.

5. On March 29, 2022 at 2:35 PM, Kenny Montoya, counsel for County defendants, informed me via email that I had not yet filed a response to County Defendants' Motion for Summary Judgment despite filing one to City Defendants' Motion for Summary Judgment. I did not realize that I had failed to file responsive documents to County Defendants' Motion for Summary Judgment until I read Mr. Montoya's email.

6. Immediately after reading Mr. Montoya's email, I revised the dates on Plaintiff's Response to County Defendants' Motion for Summary Judgment and the Declaration of Counsel Amanda L. Reilly in support of Plaintiff's Response to County Defendants' Motion for Summary Judgment and electronically filed both documents with the court. Plaintiff's Response to County Defendants' Motion for Summary Judgment was filed at 2:58 PM, only 23 minutes after Mr. Montoya sent his email. I did not make any substantive changes to either document after March 28, 2022.

7. I made an honest mistake that does not prejudice County defendants or unduly burden this Court. At most, County defendants had to wait less than one business day before reading plaintiff's responsive documents. Additionally, plaintiff does not oppose an extension for County Defendants to file a reply in support of their motion.

8. The mistake was mine alone; plaintiff was not responsible for the delayed filing in any way or manner. Accordingly, I respectfully requests that this Court grant a one day extension, from March 28, 2022 to March 29, 2022 for plaintiff to submit his Response to County Defendants' Motion for Summary Judgment so that plaintiff does not suffer any adverse consequences as a result of my mistake.

9. Attached hereto as **Exhibit 1** and incorporated herein by this reference is a true and correct copy of the email exchange between me and Mr. Montoya on March 29, 2022 with respect to Plaintiff's Opposed Motion for Extension of Time to Respond to County Defendants' Motion for Summary Judgment.

I hereby declare that the above statements are true to the best of my knowledge and belief, and I understand that it is made for use as evidence in a court of law and is subject to penalty of perjury.

Respectfully submitted this 29th day of March, 2022.

/s/ Amanda L. Reilly

Amanda L. Reilly, OSB# 194422
LAFKY & LAFKY

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of March, 2022, I served the foregoing **DECLARATION OF COUNSEL AMANDA L. REILLY IN SUPPORT OF PLAINTIFF'S RESPONSE TO COUNTY DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**, on the following party(ies) at the following address(es):

Jennifer M. Gaddis
City of Salem Legal Department
555 Liberty St. SE, Room 205
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Attorney for City of Salem

Kenneth S. Montoya
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901 Capitol St. NE
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Fax: (503) 779-2716
Email: kenny@montoyahisellaw.com
*Attorney for Defendant Polk County and
Deputy Michael H. Smith*

- [] by **mailing** a true and correct copy thereof, certified by me as such, placed in a sealed envelope addressed as set forth above, and deposited in the U.S. Post Office at Portland, Oregon on said day with postage prepaid;
- [] by causing a true and correct copy thereof to be **hand delivered** in sealed envelopes to said addresses on the date set forth above.
- [] by **faxing** a true and correct copy thereof to the fax numbers shown for said addresses on the date set forth above.
- [] by sending a full, true and correct copy thereof via **overnight mail** in a sealed, prepaid envelope, addressed to the attorneys as shown above on the date set forth above.
- [X] by submitting said document via **electronic mail**, a copy thereof was served on the parties above.

Dated this 29th day of March, 2022.

/s/ *Amanda L. Reilly*
Amanda L. Reilly, OSB #194422